

## **ATTACHMENT B**

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### Public Comments and Department Responses

### Comment 1

Comments
<ul style="list-style-type: none"><li>— Why not reinstate the fee imposed on Heenan Lake anglers for</li><li>— their fishing use as it has been done in the past? It would help to</li><li>— provide the much needed moneys to assist in the Cutthroat Trout</li><li>— Management goals (egg taking/hatching) as well as Trophy</li><li>— Trout/Heritage fishing operations.</li></ul>



#### Response to Comment 1:

The Director of the Department of Fish and Game made a determination to stop charging the access fee for Heenan Lake. The reasoning was that the Department would fund the program from existing resources and the fee was an unnecessary burden on anglers.

## Comment 2

- How will the annual Heenan Lake water rights allocations be
- implemented? DFG wants the water to stay in the lake with no
- water flowing off the lake by way of the overflow spillway. If
- each year DFG gets its allotment without releasing any water into
- the East Fork Carson River, the lake will fill and spill. Even in
- drought years, as expected in 2007, each water rights owner
- reduces his share if the expected water flowing into Heenan Lake
- by the April 1 Water Resources evaluation of the water available in
- the Heenan Lake watershed. How is that number of acre feet
- determined for each and when it is diverted from Heenan Lake?
- How is that amount determined when the DFG's water from
- previous years has been stored in the lake and should not be
- considered part of the Heenan Lake water to be allocated to the
- other water rights owner? Is there a formula is used to insure DFG
- continues to receive and store its fair share from year to year?

## Response to Comment 2

The Department of Fish and Game entered into an operation, maintenance and cost-sharing agreement in 1999 with the water rights holders at that time. The reservoir shall be operated in accordance with the Alpine Decree and other jurisdictional agencies to obtain a full reservoir on or before 1 July of each year. The total of all water accumulated at any time during each year shall be allocated to each owner in accordance with each owner's ownership interest in the water rights. Each owner may use or release its share of water rights or storage in the reservoir according to the Alpine Decree to meet its water supply and operation objectives. In the event of any conflict between or among owners regarding the use or release of water in storage in the reservoir, the available water and release capacity shall be allocated in proportion to the amount of water then remaining in storage of each owner proposing a release. An owner may carry over water stored during one water year but not released during that year into another water year, provided that any such carryover shall not interfere with any other owner's allocated reservoir capacity in subsequent years.

The Department of Fish and Game has managed its share of the water right to maintain storage in Heenan Lake for Lahontan cutthroat trout, a federally listed threatened species. Should additional water rights be acquired, these could be used for maintenance of downstream riparian habitat.

### Comment 3

There is a documented **rumor** that DFG has promised to open the road on the west side of Heenan Lake to public access. Why could/would this future action even be considered when so many of the biological event goals and public use event goals as mentioned numerous times in this document would be jeopardized? What, if any, beneficial effect will it have for the management of the DFG property?

#### Response to Comment 3:

The California Department of Fish and Game has reviewed the possibility of opening the gate to allow public access into Bagley Valley. The gate has remained closed due to potential impacts to natural resources, including nesting bald eagles.

Opening the gate to the public for access would also require the United States Forest Service, which manages lands south of the Heenan Lake Wildlife Area boundary, to determine that vehicular access by the public is warranted through their National Environmental Policy Act process.

The Department will continue to evaluate the potential for providing additional wildlife related recreational opportunities that are consistent with the proposed management of the area. Currently, staff limitations and the lack of operating funds to pay added costs and expenses from opening the gate together preclude this option. Also, the USFS must conduct appropriate environmental reviews, before the gate will be opened to public vehicular access.

#### Comment 4

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Why utilize Sage grouse as the main indicator Species to manage its habitat requirements on the Heenan Lake property? There has been a very limited, rumored, occurrence of this species on the DFG property. Why not try to restore and save the deer habitat which used to produce abundant deer populations?

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#### Response to Comment 4:

Sage grouse has not been observed within the Heenan Lake Wildlife Area (HLWA). Sign of sage grouse presence has been observed in Bagley Valley, south of the boundary line of the HLWA. Sage grouse are an important game species and there is currently an interstate working group to manage this species. A Greater Sage-grouse Comprehensive Conservation Strategy developed by the National Framework Team had been completed and is currently being published.

Furthermore, there have been petitions to list the species in Mono County and elsewhere. We believe habitat that benefits sage grouse will also benefit deer. However, due to juniper encroachment into sagebrush communities, habitat capability has been compromised.

Management activities may include removal of some junipers to enhance and promote early seral stage communities that benefit many early-seral stage species, including deer.

Comment 5

I thought I'd take a few minutes and respond to the proposed plan regarding the Heenan Lake area.

I am a long-time resident of Gardnerville, Nv and have enjoyed this area for almost twenty years. I understand that the road from the west side of the lake down Bagley valley is proposed to be opened for general usage. I think this is not in the best interest of the Management area for a number of reasons.

In a time of dwindling manpower and financial resources, this would put further strains on both the financial and enforcement requirements for the area. As it is now, if you want to go down to the East Carson, you have to walk. Nothing wrong with that. I am 64, and realize that I will not be able to do that for too many more years, but to open the road would leave the area vulnerable to poaching the broodstock fish out of the lake, which are already an threatened species, as well as turning it into another illegal dumping ground for trash.

There would also be the potential for the introduction of unwanted species of fish into Heenan Lake. This has already happened in several lakes in the area, so I believe that this is a legitimate concern. As you have experienced first hand, this can be a real nightmare to reverse.

I believe that the detrimental effects of this road opening will be far out-weighed by the beneficial effects to the few people who are unwilling to walk the road down to fish the lower end of Bagley Valley. Additional vehicular traffic on this road would also disturb the bald eagle nesting area, and bring in more "souvenir hunters" to scour the region for Indian artifacts.

Response to Comment 5:

The California Department of Fish and Game has reviewed the possibility of opening the gate to allow public access into Bagley Valley. The gate has remained closed due to potential impacts to natural resources, including nesting bald eagles.

Opening the gate to the public for access would also require the United States Forest Service, which manages lands south of the Heenan Lake Wildlife Area boundary, to determine that vehicular access by the public is warranted through their National Environmental Policy Act process.

The Department will continue to evaluate the potential for providing additional wildlife related recreational opportunities that are consistent with the proposed management of the area. Currently, staff limitations and the lack of operating funds to pay added costs and expenses from opening the gate together preclude this option. Also, the USFS must conduct appropriate environmental reviews, before the gate will be opened to public vehicular access.

Comment 6

Comments
The new management plan seems satisfactory considering there are almost no changes.
Friends of Hope would like to see the road down Bagley Valley remain closed to motorize use, we hope you continue with that policy.
Our group also supports the possible acquisition of more water rights
Thank you, Debra Walden Friends of Hope Valley

Response to Comment 6

The California Department of Fish and Game has reviewed the possibility of opening the gate to allow public access into Bagley Valley. The gate has remained closed due to potential impacts to natural resources, including nesting bald eagles.

Opening the gate to the public for access would also require the United States Forest Service, which manages lands south of the Heenan Lake Wildlife Area boundary, to determine that vehicular access by the public is warranted through their National Environmental Policy Act process.

The Department will continue to evaluate the potential for providing additional wildlife related recreational opportunities that are consistent with the proposed management of the area. Currently, staff limitations and the lack of operating funds to pay added costs and expenses from opening the gate together preclude this option. Also, the USFS must conduct appropriate environmental reviews, before the gate will be opened to public vehicular access.

Alpine County Board of Supervisor's Comments  
6/14/07

Comment 7

**5.a: Cultural Resources**

The unpaved road traveling along the Western shore of the Heenan Lake is a historical county road under the provisions of RS 2477. This road is gated at the entry with access limited to foot or horseback. The road, however, is the only access to Vaquero Cow Camp, a historic resource, located in Bagley Valley. Restrictions to access could potentially limit the ability of the County or other interested parties to engage in future preservation or maintenance activities related to this resource. The LMP should identify this as a potential activity in the future and evaluate the impact.

Appendix A, referenced in the Plan (pg 9), indicates "not for public distribution."

Response to Comment 7:

The lands accessed by the road are managed by the State of California and U.S. Forest Service. Maintenance or preservation work is conducted by the appropriate land-owning agency and therefore access is not warranted to other parties without permit or permission.

Additional access to these lands will be evaluated by the appropriate land management agency to make sure that access is congruent with the purpose of the acquisition and does not conflict with management goals and objectives for the area.

Comment 7a

Appendix A, referenced in the Plan (pg 9), indicates "not for public distribution."

Response to Comment 7a:

Appendix A refers to sensitive cultural resource information. Due to the sensitivity and risk of vandalism, this information is kept from public view and is used only for management purposes.



## Comment 8

### **8.a - 8.f, 8i: Hydrology and Water Quality**

The County supports road maintenance as an important management goal in reducing erosion and other water quality issues.

### Response to Comment 8:

The Department of Fish and Game maintains the roads within the Heenen Lake Wildlife Area boundaries as needed. We agree that this is important for reducing erosion and water quality issues.

## Comment 9

### **14b: Recreation**

"The County supports expansion of public recreation in the area. Lack of permitted motorized access along the existing road that travels the western portion of the lake to Bagley Valley significantly limits the ability of special needs populations. Such as the elderly or disabled, from enjoying the area. The County supports implementation of a fee-based permit system that would allow limited public access to the U.S. Forest Service boundary line.

Contrary to the statement made in the Draft IS ("The proposed LMP is not expected to change levels of use, and subsequently traffic volumes, in the area."), the County supports some limited form of access that we believe will increase public benefit.

Additionally, as part of the *Alpine Winter Recreation Strategy*, these lands may prove desirable in the future for other forms of recreation, including expansion of winter sports activities such as snowmobiling and cross country skiing. This is critical to the economic viability of the county. The final LMP should recognize the need of the County to utilize these lands for local economic and broad public benefit. The LMP should include this as a potential activity in the future and evaluate the impact.

#### Response to Comment 9:

The Department will continue to evaluate the potential for providing additional wildlife related recreational opportunities that are consistent with the proposed management of the area. Currently, staff limitations and the lack of operating funds to pay added costs and expenses from opening the gate together preclude this option. Also, the USFS must conduct appropriate environmental reviews, before the gate will be opened to public vehicular access.

Motorized vehicles can negatively impact wildlife species from harassment, noise, interruption of denning, foraging or other critical activities.

Limiting vehicular access to the Heenen Lake Wildlife Area, protects the Lahontan cutthroat trout broodstock by reducing the potential for poaching fish or fishing out of season and the potential for illegal introduction of live bait. Should these roads be opened, or use increased in the winter, additional patrol by law enforcement would be warranted. At this time, the Department does not have the resources to add personnel that would be necessary to adequately enforce this area.

There are federal lands outside of the Heenen Lake Wildlife Area that allows for the kind of recreational opportunities described. Currently, low-impact activities such as: hunting, fishing, horseback riding, mountain biking, hiking and crosscountry skiing are allowed on the Heenen Lake Wildlife Area.

#### Comment 10

##### **J 5.a: Transportation**

The County supports the expansion of controlled motorized access to adjacent U.S. Forest Service lands. To that end, the County has previously discussed with DFG the possibility of strategically placing large boulders along the western side of Heenan Lake to prevent motorized intrusion, should such access be permitted. The LMP should identify this as a potential activity in the future and evaluate the impact

#### Response to Comment 10:

The Department recognizes that boulders are needed to prevent people from driving around the gate and illegally accessing the wildlife area. In accordance with the goals of the LMP to manage recreational resources, the Department will conduct the appropriate activities to prevent illegal actions in the wildlife area.

### Comment 11

Heenan Lake and its surrounding lands are a valued public resource in Alpine County. Protecting the integrity of the Lahontan cutthroat trout broodstock while providing meaningful public recreational experiences is critical to the Board of Supervisors. Our future economic viability relies heavily on our ability to balance these competing needs for the greatest public good. The Department of Fish and Game's active participation and cooperation is essential in achieving this goal.

### Response to Comment 11:

The Department agrees that balancing the needs for sensitive biological resources and public desires can be a challenge. The purpose of acquisition for the Heenan Lake Wildlife Area was not to provide a recreation area for the public, but to provide habitat for endangered Lahontan Cutthroat trout and to provide habitat for terrestrial species such as deer, bear, upland game birds, waterfowl and sensitive species such as bald eagle, white pelicans, osprey and many other species.

However, recreational activities that do not conflict with this primary objective are allowed. As stated previously, hunting, fishing, horseback riding, mountain biking, hiking and cross-country skiing are allowed on the Heenan Lake Wildlife Area.

RE: SCH# 2007032055 -- Heenen Lake Wildlife Management Plan Update, Alpine County  
Dear Ms. Weist:

The Native American Heritage Commission has reviewed the Notice of Preparation (NOP) regarding the above referenced project. The California Environmental Quality Act (CEQA) states that any project that causes a substantial adverse change in the significance of an historical resource, which includes archaeological resources, is a significant effect requiring the preparation of an EIR (CEQA guidelines 15064(b)). To adequately comply with this provision and mitigate project-related impacts on archaeological resources, the Commission recommends the following actions be required:

Comment 12

- ✓ Contact the appropriate Information Center for a record search to determine:
  - If a part or all of the area of project effect (APE) has been previously surveyed for cultural resources.
  - If any known cultural resources have already been recorded on or adjacent to the APE.
  - If the probability is low, moderate, or high that cultural resources are located in the APE.
  - If a survey is required to determine whether previously unrecorded cultural resources are present.

Comment 13

- ✓ If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
  - The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum, and not be made available for public disclosure.
  - The final written report should be submitted within 3 months after work has been completed to the appropriate regional archaeological information center.

Comment 14

- ✓ Contact the Native American Heritage Commission for:
  - A Sacred Lands File Check. Sacred Lands File check completed, no sites indicated
  - A list of appropriate Native American Contacts for consultation concerning the project site and to assist in the mitigation measures. Native American Contacts List attached

Comment 15

- ✓ Lack of surface evidence of archaeological resources does not preclude their subsurface existence.
  - Lead agencies should include in their mitigation plan provisions for the identification and evaluation of accidentally discovered archaeological resources, per California Environmental Quality Act (CEQA) §15064.5(f). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American, with knowledge in cultural resources, should monitor all ground-disturbing activities.
  - Lead agencies should include in their mitigation plan provisions for the disposition of recovered artifacts, in consultation with culturally affiliated Native Americans.
  - Lead agencies should include provisions for discovery of Native American human remains in their mitigation plan. Health and Safety Code §7050.5, CEQA §15064.5(e), and Public Resources Code §5097.98 mandates the process to be followed in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery.

Sincerely,

*Katy Sanchez*

Katy Sanchez  
Associate Governmental Program Analyst  
(916) 653-4040

CC: State Clearinghouse

### General Response:

The proposed LMP is a programmatic document, as such; it does not describe "typical" project activities, such as grading or construction. Furthermore, large-scale earth moving and construction activities are not likely activities identified in the proposed LMP. The proposed LMP sets forth a series of goals specifically intended to identify, map and avoid generating impacts to cultural resources.

### Comment 12

- ✓ Contact the appropriate Information Center for a record search to determine;
  - If a part or all of the area of project effect (APE) has been previously surveyed for cultural resources.
  - If any known cultural resources have already been recorded on or adjacent to the APE.
  - If the probability is low, moderate, or high that cultural resources are located in the APE.
  - If a survey is required to determine whether previously unrecorded cultural resources are present.

### Response to Comment 12:

Pursuant to CEQA (PRC §21000, et seq.) and the Guidelines (CCR §15000, et seq.), the Genesis Society conducted an Archaeological Survey for the proposed LMP. This included a records search at the Central California Information Center at CSU, Stanislaus. The Survey also involved consultations with relevant agencies, individuals and documents and a field inspection of the project site.

### Comment 13

- ✓ If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
  - The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum, and not be made available for public disclosure.
  - The final written report should be submitted within 3 months after work has been completed to the appropriate regional archaeological information center.

#### Response to Comment 13:

The archaeological Survey was used to inform the environmental review, which is set forth in the proposed Initial Study/Negative Declaration. The Archaeological Survey will be used to implement the proposed LMP in a manner that will ensure the cultural resources within the Wildlife Area are not subjected to impacts. The information will be used by the Department, and will not be available for public review.

## Comment 14

- ✓ Contact the Native American Heritage Commission for:
- A Sacred Lands File Check. Sacred Lands File check completed, no sites indicated
  - A list of appropriate Native American Contacts for consultation concerning the project site and to assist in the mitigation measures. Native American Contacts List attached

### Response to Comment 14:

As part of the Archaeological Survey, the Genesis Society consulted:

- US Department of the Interior, National Register (1986, Supplements to 12/05).
- The California Register of Historical Resources.
- The California Inventory of Historic Resources (State of California 1976).
- The California Historical Landmarks (State of California 1996).
- The California Points of Historical Interest (May 1992 and updates).
- The Historic Property Data File (OHP 10/02).
- The CALTRANS State and Local Bridge Survey (1989 and updates).
- The Survey of Surveys (1989).
- The Native American Heritage Commission.
- Washoe Tribe of Nevada and California, William Dancingfeather, Carson City, Nevada.
- Washoe Tribe of Nevada and California, Brian Wallace, Gardnerville, Nevada.
- GLO Plat Maps (1874-1875 and 1865-1876), and historic USGS quad (1941 Heenan Lake).
- Existing published and unpublished documents relevant to prehistory, ethnography, and early historic developments in the vicinity.

## Comment 15

- ✓ Lack of surface evidence of archeological resources does not preclude their subsurface existence.
  - Lead agencies should include in their mitigation plan provisions for the identification and evaluation of accidentally discovered archeological resources, per California Environmental Quality Act (CEQA) §15064.5(f). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American, with knowledge in cultural resources, should monitor all ground-disturbing activities.
  - Lead agencies should include in their mitigation plan provisions for the disposition of recovered artifacts, in consultation with culturally affiliated Native Americans.
  - Lead agencies should include provisions for discovery of Native American human remains in their mitigation plan. Health and Safety Code §7050.5, CEQA §15064.5(e), and Public Resources Code §5097.98 mandates the process to be followed in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery.

### Response to Comment 15:

For the sake of clarity, the DFG would like to reiterate that cultural resources within the project site, whether currently identified or yet-to-be discovered, are to be protected to the maximum extent practicable. The National Historic Preservation Act, Native American Graves Protection and Repatriation Act and the Archaeological Resources Protection Act are potentially applicable federal regulations. At the state level, Public Resources Code, §5097.94, §5097.98, and §5097.99 are potentially applicable regulations. In addition to these sections of the PRC, Health and Safety Code §7050.5 pertains to the discovery of previously undiscovered human remains. As identified in the proposed Initial Study/Negative Declaration:

- If previously unidentified cultural resources are discovered through the implementation of the LMP all work shall cease in the area. A professional archaeologist shall be consulted to evaluate the cultural resource(s) and, if necessary, describe appropriate mitigation to be implemented.
- If human remains are discovered on the project site, work will cease in the project area and the coroner will be contacted immediately. Activities relative to newly discovered human remains will be regulated pursuant to applicable sections of the Public Resources and Health and Safety Codes.